IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

WP(C).No. 30588 of 2007(N)

PETITIONER:

G.RAMACHANDRAN NAIR, S/O. K.GANGADHARAN NAIR, AGED 60 YEARS, 187, N.S.P. NAGAR, KESAVADASAPURAM, TRIVANDRUM-4, (DISTRICT LOTTERY OFFICER (RETD.), THIRUVANANTHAPURAM.

BY ADV. SRI.V.A.MUHAMMED

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, SECRETARIAT, TRIVANDRUM.

2. THE DIRECTOR OF STATE LOTTERIES, TRIVANDRUM.

3. THE ACCOUNTANT GENERAL (A & E), KERALA, TRIVANDRUM.

BY GOVERNMENT PLEADER SRI.BEJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J.

W.P.(C).No.30588 of 2007 N

Dated this the 16rd day of October, 2007.

JUDGMENT

The petitioner retired from service on 31.1.2002 as a District Lottery Officer. Pensionary benefits due to him were admittedly sanctioned by the Accountant General as per Ext.P1 order. According to him, neither the Death cum Retirement Gratuity nor the pension has been disbursed to him. Ext.P2 is a notice dated 16.4.2007 issued more than 5 years after the retirement of the petitioner proposing fixation of a liability of Rs.68,845/- as against the petitioner. It required the petitioner to submit his objections thereto. Petitioner submitted his objections. According to him, the proposal for fixation of the liability after the maximum period prescribed in Note 3 to Rule 3 of Part III Kerala Service Rules by itself is untenable. He further prays that, at any rate, a provisional amount to adjust the liability could be retained and the balance due to him

under Death cum Retirement Gratuity and pension may be disbursed. Ext.P3 representation is filed before the 1st respondent showing all his grievances.

2. After hearing the learned counsel for the petitioner and the learned Government Pleader, the writ petition is disposed of as follows:

(a) First respondent shall consider Ext.P3 and pass final orders thereon, after hearing the petitioner, within one month from the date of receipt of a copy of this judgment.

(b) First respondent shall also consider whether any liability was fixed within the time frame prescribed in the statute.

(c) If no liability has been fixed within the time frame as mentioned above, there cannot be any recovery from the Death cum Retirement Gratuity. This fact shall be taken note of by the first respondent.

(d) Necessary steps shall be taken by the 2nd respondent to disburse the

pension due to the petitioner. If any, non-liability certificate has to be collected, that shall be done. Endeavour shall be made to do this expeditiously, at any rate, within a period of six weeks from the date of receipt of a copy of this judgment.

(e) A copy of the representation shall be filed by the petitioner before the 2nd respondent also.

Sd/-

(V.GIRI)

JUDGE

sk/

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P.S. To Judge